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Paper No. 7

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**DEC 06 2001**

**OFFICE OF PETITIONS**

MOTOROLA, INC.  
1303 EAST ALGONQUIN ROAD  
IL01/3RD  
SCHAUMBURG, IL 60196

In re Application of  
Bondy, et al.  
Application No. 09/827,219  
Filed: April 5, 2001  
Attorney Docket No.: CE08166R  
For: COMMUNICATION NETWORK AND  
METHOD FOR PROVIDING SURVEILLANCE  
SERVICES

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: DECISION REFUSING STATUS  
: UNDER 37 CFR 1.47(a)  
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This is in response to the petition under 37 CFR 1.47(a), filed August 23, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed April 5, 2001 without an executed oath or declaration and naming William Michael Bondy, Robert Gerald Hug, Wesley Stuart Johns, Raymond M. Liss, Timothy L. Moran, Howard Nodell, Shmuel Silverman, and Bruce Martin Wiatrak as joint inventors.

Accordingly, on May 17, 2001, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. In response, on August 23, 2001, the instant petition along with a petition for an extension of time was filed.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner lacks items (1) and (2) set forth above.

As to item (1), the petition lacks sufficient evidence to establish that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented

with the application papers, refuses to sign the oath or declaration.

The declaration of Karen Kass submitted with the instant petition indicates that on July 19, 2001, an attempt to present the application papers to the non-signing inventor was made when the application papers were mailed to the inventor at the inventor's last known address via Federal Express®. Declarant states that attempts to deliver the package containing the application papers were unsuccessful. Declarant alleges that Federal Express® informed her that an individual identifying herself as Timothy Moran's wife refused to accept the package, indicated she didn't know where Timothy Moran was, and stated she had no forwarding address. Declarant further states that no additional attempts were made to locate Timothy Moran because declarant believed "further efforts to contact Timothy Moran would be futile."

Petitioner is required to undertake additional efforts to locate and present a copy of the application papers (specification, claims, and drawings) to the non-signing inventor.

Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be made. Details regarding attempts to locate the non-signing inventor should be submitted in the form of a declaration or affidavit by the person or persons having first hand knowledge of the efforts made to locate the inventor.

Petitioner should note that while the petition indicates the last known address of non-signing inventor to be 708 Carriage Hill Road, Island Lake, Illinois, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicated that as recently as April, 2001, the inventor resided in Denton, Texas.

Any renewed petition must be supported by evidence that *bona fide* effort has been made to locate the inventor. If the inventor is located and presented with a copy of the application papers (specification, claims, and drawings), and the inventor thereafter evidences a refusal to execute the application papers, this fact should be made known in a declaration by one having first hand knowledge of the refusal be it verbal or written.

As to item (2), the declaration submitted herewith is objected to because it contains alterations that have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Commissioner for Patents  
                  Box DAC  
                  Washington, D.C. 20231

By fax:           (703) 308-6916  
                  Attn.: Office of Petitions

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By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
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Telephone inquiries related to this decision may be directed to  
Petitions Attorney Alesia M. Brown at (703) 305-0310.

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